

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

**NOTICE OF HEARING AND EXPEDITED MOTION FOR AN ORDER
AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF LIENS**

To: Parties specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly-appointed Chapter 7 Trustee in the above-referenced bankruptcy case ("**Trustee**"), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:00 a.m. on October 7, 2009 Courtroom No. 8 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415 or as soon thereafter as counsel can be heard.

3. As this Motion is brought on an expedited basis, any response to this Motion must be filed and served by delivery as soon as possible and suggestion is made that a response should be filed at least twenty-four (24) hours prior to the hearing. **UNLESS A RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rules 1070-1 and 1073-1. This is a core proceeding. This case was commenced as a voluntary Chapter 7 proceeding on June 4, 2009. The case is now pending before this Court.

5. This Motion arises under 11 U.S.C. §363(b)(f) and (m) and Bankruptcy Rule 6004. The Trustee seeks to sell nonexempt property to Debtor Dennis E. Hecker ("**Debtor**"). More specifically, the Trustee seeks to sell to Debtor the following (which are collectively referred to as the "**Property**"):

- (a) 2008 Harley-Davidson motorcycle - VIN No.: 1HD1PS8148K977133 ("**Motorcycle**"); and
- (b) Docks and boat lift systems located at 11700 Cross Avenue, Crosslake, Minnesota:
 - (1) 5 x 8 Aluminum Framework Dock Section w/ Vinyl Panels
 - (34) 5 x 10 Aluminum Framework Dock Section w/ Vinyl Panels
 - (5) 4 x 12 Aluminum Framework Dock w/ Vinyl Panels
 - (12) 4 x 10 Aluminum Framework Dock w/ Vinyl Panels
 - (93) Brock Dock Pipe Covers
 - (2) ShoreStation 20100 Boat Lifts with 18' Canopies
 - (1) ShoreStation 10531 Double PWC Boat Lift with 13' Canopy
 - (2) ShoreStation 1288 Boat Lifts with 18' Canopies
 - (1) ShoreStation 10621 Boat Lift
 - (1) ShoreStation 50120 Boat Lift
 - (2) Telescoping 20 Flag Pole
 - (2) Dock Bracket for Telescoping Flag Pole
 - (1) 6-Step Dock Stairs
 - (1) 6-Foot Vinyl Aluminum Dock Bench
 - (2) Carvel Large Dock Box
 - (2) Dock Box Stand, Aluminum
 - (2) 36' Covered Stairs

(collectively, the "**Dock/Lifts**").

6. The Motorcycle was purchased by Dennis Hecker in December 2008 through use of a personal check in the amount of \$23,590.00. Although the Debtor paid for the Motorcycle with a personal check, he titled it in the name of Northstate Financial Corporation. That transfer was not disclosed in the Debtor's original schedules or statement of financial affairs. The Trustee commenced ADV No. 09-5030 against Northstate Financial Corporation, Bremer Bank and others

("Adversary Proceeding"). Bremer Bank allegedly holds a "floor plan" financing security interest from Northstate Financial Corporation. The Adversary Proceeding seeks, among other things, to recover the Motorcycle free of any claim of Bremer Bank. The Trustee has been advised by Debtor's counsel that Bremer Bank does not assert, or has released any purported interest in the Motorcycle. Accordingly, the proceeds from the sale of the Motorcycle will not be subject to the claims of any secured creditor. The Trustee has consented to Northstate Financial Corporation transferring the Motorcycle title to the Debtor upon payment of \$15,000.00 and approval by this Court.

7. The Trustee does not believe that any party holds a perfected non-avoidable security interest in the Dock/Lifts. However, some parties may assert that they hold a security interest in the Dock/Lifts. The sale will be free and clear of any such interests and the interests of any purported secured creditors in the Dock/Lifts would attach to the sale proceeds with the same dignity and priority as those purportedly held at the commencement of this case. Based upon information received by the Trustee, it appears to him that the Dock/Lifts system originally may have cost approximately \$75,000.00.

8. The Trustee will entertain bids for the Property, prior to the hearing, which exceed the Debtor's offer. Any buyer, including the Debtor, must close upon Court approval of this sale.

9. Expedited relief is required as docks and lifts are generally removed from lakes in the Crosslake region well before the end of the month of October. If there is not a sale, the Trustee will have to expend estate assets to protect the Property.¹

¹ The next available date for hearing was October 21, 2009.

10. Pursuant to Local Rule 9013-2(c), the Trustee gives notice that he may, if necessary, testify at the hearing regarding the proposed sale.

WHEREFORE, the Trustee moves the court for an order as follows:

1. Authorizing the sale of the sale of the Motorcycle to the Debtor for the sum of \$15,000.00, which sale proceeds will not be subject to a party's claimed security interest.

2. Authorizing the sale of the Dock/Lifts to the Debtor for \$25,000.00, with the claimed liens of any claimed secured parties attaching to the sale proceeds with the same dignity and priority as those claimed liens held at the commencement of this case.

3. Authorizing the sale of the Motorcycle and the Dock/Lifts to any other higher bidder on such terms as are acceptable to the Trustee.

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: October 1, 2009

By _____
Matthew R. Burton, #210018
Attorneys for Randall L. Seaver, Trustee
100 South Fifth Street, Suite 2500
Minneapolis, Minnesota 55402
(612) 332-1030

VERIFICATION

I, Randall L. Seaver, Trustee of the Bankruptcy Estate of Dennis E. Hecker, the moving party named in the foregoing Notice of Hearing and Motion for an Order Authorizing Sale of Assets Free and Clear of Liens, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: October 1, 2009

/e/ Randall L. Seaver

Randall L. Seaver, Trustee

409980

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

**ORDER AUTHORIZING EXPEDITED SALE OF ASSETS OF
DEBTOR FREE AND CLEAR OF INTERESTS**

This case is before the court on the motion of Randall L. Seaver, trustee seeking an order authorizing a sale of assets free and clear of interests.

Based on the motion and the file,

IT IS ORDERED:

1. The Notice of the sale motion and of the hearing was sufficient under the circumstances.
2. The Trustee is entitled to expedited relief.
3. The Trustee is authorized to sell the 2008 Harley-Davidson motorcycle - VIN No.: 1HD1PS8148K977133 to the Debtor for the sum of \$15,000.00, which sale proceeds are not subject to any party's claimed security interest.
4. The Trustee is authorized to sell the Dock/Lifts as described below to the Debtor for the sum of \$25,000.00, with the claimed liens of any claimed secured parties attaching to the sale proceeds with the same dignity and priority as those claimed liens held at the commencement of this case:

Docks and boat lift systems located at 11700 Cross Avenue, Crosslake, Minnesota:

- (1) 5 x 8 Aluminum Framework Dock Section w/ Vinyl Panels
- (34) 5 x 10 Aluminum Framework Dock Section w/ Vinyl Panels
- (5) 4 x 12 Aluminum Framework Dock w/ Vinyl Panels
- (12) 4 x 10 Aluminum Framework Dock w/ Vinyl Panels
- (93) Brock Dock Pipe Covers
- (2) ShoreStation 20100 Boat Lifts with 18' Canopies
- (1) ShoreStation 10531 Double PWC Boat Lift with 13' Canopy
- (2) ShoreStation 1288 Boat Lifts with 18' Canopies
- (1) ShoreStation 10621 Boat Lift
- (1) ShoreStation 50120 Boat Lift
- (2) Telescoping 20 Flag Pole
- (2) Dock Bracket for Telescoping Flag Pole
- (1) 6-Step Dock Stairs
- (1) 6-Foot Vinyl Aluminum Dock Bench
- (2) Carvel Large Dock Box
- (2) Dock Box Stand, Aluminum
- (2) 36' Covered Stairs

5. The property and rights sold shall be free and clear of any interest in such property pursuant to 11 U.S.C. §363(a), (b) and (f) with such interests, if any, attaching to the proceeds of sale with the same priority, dignity and effect as such interests existed pre-petition.

6. The proceeds shall be deposited in the Trustee's account and held subject to further order of the Court.

BY THE COURT:

Dated: _____

Robert J. Kressel
U.S. Bankruptcy Court Judge

409982